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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/643,670      | 08/19/2003  | Roland Schnabel      | 4965-000158         | 5757             |

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EXAMINER

GEHMAN, BRYON P

ART UNIT PAPER NUMBER

3728

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/643,670

Applicant(s)

SCHNABEL ET AL.

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-23 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/7/03, 02/26/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 1, 9, 16 and 23, lines 13-14 of each, "said plates" is indefinite, as no plates per se define part of the claimed invention, only as imaginary possible adjuncts. To properly show the relationship, the phrase in each instance should be --the plates--.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 and 9-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Weichelsbaum (3,063,549). Claims 1-2, 6, 8-10, 14-17 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 2141705. Claims 1-3, 6, 9-11, 14, 16-18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kikuchi (4,747,488). Each discloses a container for receiving plates, the container comprising a container part (1; 12; 2; respectively) having a cavity enclosed by four walls (7-10; as shown; as shown) and a bottom (6; as shown; 4), a removable cover (2; 13; 3), guide grooves (26-

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29 and 35-38; between elements 16; 25) located on opposing walls, and a flexible tongue (44; 29; 32) integral with the cover, the flexible tongue biased into the direction of the bottom to exert a pressure against received plates to secure the plates.

As to claims 2, 10 and 17, each discloses the tongue protrudes from an inner surface of the cover.

As to claims 3, 11 and 18, Weichelsbaum and Kikuchi each disclose a homopolymeric material (col. 2, lines 25-34; polymer by hatching).

As to claims 4, 12 and 19, Weichelsbaum discloses polypropylene.

As to claims 5, 13 and 20, Weichelsbaum discloses a film hinge (4).

As to claims 6, 14 and 21, each discloses locking means (43 or 45; 37; 28 and 36).

As to claims 7, 15 and 22, Weichelsbaum discloses a circumferentially closed wall section (at 43).

As to claims 8 and 23, DE 2141705 discloses a ridge (26) and a bottom flexible element (27, 28 and 31).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chess et al. (5,674,456) in view of any one of Weichelsbaum, DE 2141705 and Kikuchi. Chess et al. discloses a container for receiving plates, the container comprising a container part (70) having a cavity enclosed by four walls (72a-d) and a bottom (as shown), a removable cover (80), and guide grooves (between ribs 76 and ribs 77) located on opposing walls. Weichelsbaum, DE 2141705 and Kikuchi each disclose container for receiving plates including a flexible tongue (44; 29; 32) integral with a cover, the flexible tongue biased into the direction of the bottom to exert a pressure against received plates to secure the plates. To modify the container of Chess et al. employing the tongue teaching of any one of Weichelsbaum, DE 2141705 and Kikuchi would have been obvious in order to secure plates within the container, as suggested by each one of Weichelsbaum, DE 2141705 and Kikuchi.

As to claims 2, 10 and 17, Weichelsbaum, DE 2141705 and Kikuchi each discloses the tongue protrudes from an inner surface of the cover.

As to claims 3, 11 and 18, Weichelsbaum and Kikuchi each disclose a homopolymeric material (col. 2, lines 25-34; polymer by hatching).

As to claims 4, 12 and 19, Weichelsbaum discloses polypropylene.

As to claims 5, 13 and 20, Chess et al. discloses a film hinge (82).

As to claims 6, 14 and 21, Chess et al. discloses locking means (90).

As to claims 7, 15 and 22, Chess et al. discloses a circumferentially closed wall section (85).

As to claim 8, Chess et al. discloses a ridge (see Figure 8) .

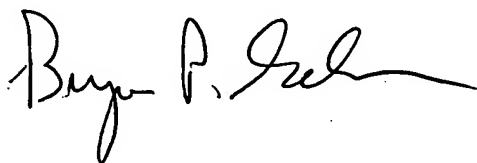
As to claim 23, DE 2141705 discloses a flexible bottom element (27, 28 or 31).

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are plate containers with flexible tongues.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman  
Primary Examiner  
Art Unit 3728

BPG